

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LAURA LEE SMITH,
Petitioner,
v.
DOUG COLE,
Respondent.

Case No. C10-5325BHS/JRC

REPORT AND RECOMMENDATION TO
DENY IN FORMA PAUPERIS STATUS

NOTED FOR: June 25, 2010

This habeas corpus action, filed pursuant to 28 U. S.C. 2254, has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636 (b) (1) (A) and 636 (b) (1) (B) and Local Magistrate Judge's Rules MJR 3 and MJR 4.

Petitioner seeks to proceed in forma pauperis, but has an average spendable balance in her account that would allow for payment of the full five dollar filing fee (Dkt. # 1). Petitioner earns ninety dollars a month (Dkt. # 1).

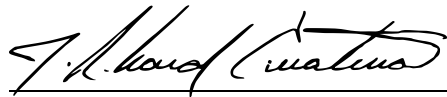
The district court may permit indigent litigants to proceed in forma pauperis upon completion of a proper affidavit of indigence. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed in forma pauperis. Weller v. Dickson, 314

1 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963). Petitioner has the funds needed for
2 full payment.

3 Petitioner has not shown that she is unable to pay the full filing fee to proceed with her
4 petition. Accordingly, the court recommends the in forma pauperis status be **DENIED and**
5 **petitioner be given thirty days to pay the filing fee.**

6 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil
7 Procedure, the parties shall have fourteen (14) days from service of this Report to file written
8 objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those
9 objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the
10 time limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on June
11 25, 2010, as noted in the caption.

12 Dated this 2nd day of June, 2010.

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15 J. Richard Creatura
16 United States Magistrate Judge
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